

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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In Re: PHARMACEUTICAL INDUSTRY : MDL NO. 1456  
AVERAGE WHOLESALE PRICE : Master File No. 01-CV-12257-PBS  
LITIGATION :  
THIS DOCUMENT RELATES TO: : Judge Patti B. Saris  
(Master Consolidated Class Action) :  
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JOINT SUBMISSION ON MEDIATION

The undersigned counsel for Plaintiffs and the Phase 1 Defendants in the above-captioned action submit the following proposal for mediation, in compliance with Paragraph VIII of Case Management Order No. 10 (March 25, 2004).

The parties have agreed on the selection of Eric Green, Esq. as a mediator for these purposes. The parties propose jointly to contact Mr. Green to determine his availability to act in this capacity.

The parties also believe that fundamental discovery relating to the parties' claims and defenses, which is now occurring, is a necessary predicate to any informed attempt at mediation. In order to allow the parties sufficient time to conduct the discovery and to evaluate information received in discovery prior to engaging in mediation, the parties agree that a first session shall be scheduled with the mediator to occur no later than 120 days after the entry of CMO No. 10.

Within the next 30 days, the parties jointly will discuss with Mr. Green scheduling for the mediation, as well as specific procedures to govern the mediation. Following these discussions with Mr. Green, the parties will submit to the Court a proposed order providing specific procedures for the conduct of the mediation, as well as the allocation of costs.

Respectfully Submitted,

PLAINTIFFS' LEAD COUNSEL  
ON BEHALF OF ALL PLAINTIFFS

By: /s/ Thomas M. Sobol

DATED: April 26, 2004

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ON BEHALF OF THE TRACK 1 DEFENDANTS

By: /s/ Lucy Fowler

DATED: April 26, 2004

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**CERTIFICATE OF SERVICE**

I certify that on April 26, 2004, a true and correct copy of the foregoing submission was served on all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to Verilaw Technologies for posting and notification to all parties.

/s/ Lucy Fowler

Lucy Fowler